

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Leman, Cain, Paul, Vasut, Schofield,  
et al.

H.B. No. 4346

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the possession, carrying, or transportation of a  
3 firearm or alcoholic beverage by certain persons during the use of  
4 an easement.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter A, Chapter 5, Property Code, is  
7 amended by adding Section 5.020 to read as follows:

8 Sec. 5.020. EASEMENTS RESTRICTING POSSESSION OF FIREARMS OR  
9 ALCOHOLIC BEVERAGES PROHIBITED. (a) In this section:

10 (1) "Alcoholic beverage" has the meaning assigned by  
11 Section 1.04, Alcoholic Beverage Code.

12 (2) "Firearm" has the meaning assigned by Section  
13 46.01, Penal Code. The term includes any firearm parts, firearm  
14 accessories, and firearm ammunition.

15 (b) An instrument granting an access easement may not  
16 restrict or prohibit an easement holder or an easement holder's  
17 guest from possessing, carrying, or transporting a firearm or an  
18 alcoholic beverage over the servient estate while using the  
19 easement for the easement's purpose.

20 (c) The owner of a servient estate may not enforce a  
21 restrictive covenant in an instrument granting an access easement  
22 over the servient estate that restricts or prohibits the easement  
23 holder or the easement holder's guest from possessing, carrying, or  
24 transporting a firearm or an alcoholic beverage over the servient

1 estate while using the easement for the easement's purpose.

2 SECTION 2. Section 5.020, Property Code, as added by this  
3 Act, applies to an easement granted before, on, or after the  
4 effective date of this Act.

5 SECTION 3. This Act takes effect September 1, 2021.

**ADOPTED**

**MAY 21 2021**

FLOOR AMENDMENT NO. 1

*Latey Law*  
Secretary of the Senate

BY: 

1 Amend H.B. No. 4346 (senate committee report) in SECTION 1 of  
2 the bill, immediately after added Section 5.020(a), Property Code  
3 (page 1, between lines 31 and 32), by adding the following new  
4 Subsection (b) and relettering existing subsections of Section  
5 5.020 accordingly:

6 (b) This section does not apply to a right-of-way easement  
7 for a pipeline, electric transmission line, or other utility.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 23, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4346** by Leman (Relating to the possession, carrying, or transportation of a firearm or alcoholic beverage by certain persons during the use of an easement.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Property Code to provide that an instrument granting certain access easements may not restrict or prohibit an easement holder or easement holder's guest from possessing, carrying, or transporting a firearm while using the easement for the easement's purposes.

The bill would prevent the owner of a servient estate from enforcing a restrictive covenant in an instrument granting an easement on the servient estate that restricts or prohibits the easement holder or easement holder's guest from possessing, carrying, or transporting a firearm while using the easement for the easement's purpose.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result of implementing the provisions of the bill.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin, 458 Alcoholic Beverage Commission

**LBB Staff:** JMc, CMA, SMAT, KFB, DKN, BH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 16, 2021**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4346** by Leman (Relating to the possession, carrying, or transportation of a firearm or alcoholic beverage by certain persons during the use of an easement.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Property Code to provide that an instrument granting an access easement or appurtenant easement may not restrict or prohibit an easement holder or easement holder's guest from possessing, carrying, or transporting a firearm while using the easement for the easement's purposes.

The bill would prevent the owner of a servient estate from enforcing a restrictive covenant in an instrument granting an easement on the servient estate that restricts or prohibits the easement holder or easement holder's guest from possessing, carrying, or transporting a firearm while using the easement for the easement's purpose.

Based on information provided by the Office of Court Administration and the Texas Alcoholic Beverage Commission, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin, 458 Alcoholic Beverage Commission

**LBB Staff:** JMc, SMAT, KFB, DKN, BH

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 22, 2021**

**TO:** Honorable James White, Chair, House Committee on Homeland Security & Public Safety

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4346** by Leman (Relating to the possession, carrying, or transportation of a firearm by certain persons during the use of an easement.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Property Code to provide that an instrument granting an access easement or appurtenant easement may not restrict or prohibit an easement holder or easement holder's guest from possessing, carrying, or transporting a firearm while using the easement for the easement's purposes.

The bill would prevent the owner of a servient estate from enforcing a restrictive covenant in an instrument granting an easement on the servient estate that restricts or prohibits the easement holder or easement holder's guest from possessing, carrying, or transporting a firearm while using the easement for the easement's purpose.

Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Local Government Impact**

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**Source Agencies:** 212 Office of Court Admin

**LBB Staff:** JMc, DKN, BH

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**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

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**TO:** Honorable James White, Chair, House Committee on Homeland Security & Public Safety

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4346** by Leman (Relating to the possession, carrying, or transportation of a firearm by certain persons during the use of an easement.), **As Introduced**

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Based on information provided by the Office of Court Administration, no significant fiscal impact to the state court system is anticipated as a result from implementing the provisions of the bill.

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**Local Government Impact**

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**Source Agencies:** 212 Office of Court Admin

**LBB Staff:** JMc, DKN, BH

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**May 15, 2021**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on State Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4346** by Leman (Relating to the possession, carrying, or transportation of a firearm or alcoholic beverage by certain persons during the use of an easement.), **As Engrossed**

The provisions of the bill addressed by this analysis would amend the Property Code as it relates to conveyances. Under the provisions of the bill, in certain circumstances, an easement holder or an easement holder's guest may not be restricted or prohibited from possessing, carrying, or transporting a firearm or alcoholic beverage while using the easement for the easement's purpose.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on the demand for state correctional resources. The bill does not expressly create a felony offense, increase the punishment for an existing misdemeanor to that of a felony, increase the punishment for an existing felony offense or category of felony level offenses, or change the eligibility of a person for felony community supervision, parole, or mandatory supervision.

**Source**

**Agencies:**

**LBB Staff:** JMc, SMAT, LM, DGI



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**  
**87TH LEGISLATIVE REGULAR SESSION**

**April 22, 2021**

**TO:** Honorable James White, Chair, House Committee on Homeland Security & Public Safety

**FROM:** Jerry McGinty, Director, Legislative Budget Board

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The provisions of the bill addressed by this analysis would amend the Property Code as it relates to conveyances. Under the provisions of the bill, in certain circumstances, an easement holder or an easement holder's guest may not be restricted or prohibited from possessing, carrying, or transporting a firearm while using the easement for the easement's purpose.

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**CRIMINAL JUSTICE IMPACT STATEMENT**  
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